

Message Text

CONFIDENTIAL

PAGE 01 LONDON 17905 201831Z

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ACTION ARA-10

INFO OCT-01 EUR-12 ISO-00 ERDA-05 AID-05 CEA-01 CIAE-00

CIEP-01 COME-00 DODE-00 EB-07 FPC-01 H-02 INR-07

INT-05 L-03 NSAE-00 NSC-05 OMB-01 PM-04 USIA-06

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FM AMEMBASSY LONDON

TO SECSTATE WASHDC 6745

INFO AMEMBASSY CARACAS

C O N F I D E N T I A L LONDON 17905

E.O. 11652: GDS

TAGS: ENRG EINV VE

SUBJECT: PETROLEUM ROYALTY HOLDERS

REF: LONDON 15376, 15830; CARACAS 7973, 9759; STATE

266057, 24629L, 243027, 177721

1. FCO LATIN AMERICAN DEPARTMENT HAS GIVEN US INFORMALLY A NEGATIVE ASSESSMENT OF LEGAL AND EQUITABLE MERIT OF ROYALTY HOLDERS CLAIMS AS OUTLINED BELOW. IN RESPONSE TO OUR RENEWED APPROACH, FCO HAS EXPRESSED WILLINGNESS TO PREPARE WRITTEN LEGAL OPINION WHICH WILL BE FORWARDED TO DEPARTMENT. FCO HOPES L WILL RECIPROCATATE.

2. ACCORDING TO OUR SOURCE, FCO LEGAL ADVISER CONSIDERS ROYALTY HOLDEPS POSSESS A RIGHT TO FUTURE PROFITS WHICH, UNLIKE TANGIBLE PROPERTY RIGHTS, IS NOT COMPENSABLE, AT LEAST NOT UNDER VENEZUELAN NATIONALIZATION LEGISLATION. LEGAL ADVISOR IS NOT PERSUADED LEGAL PRECEDENT AFFORDS ROYALTY HOLDEPS PARTICULARLY STRONG CASE, AND ACQUIESCENCE ON THIS POINT IN CASE OF COMPANIES DOES NOT HELP. HE CONCLUDES HOLDERS ARE NOT LIKELY TO GAIN EFFECTIVE RELIEF BY PURSUING LOCAL LEGAL REMEDY BUT BELIEVES THIS COURSE
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PAGE 02 LONDON 17905 201831Z

SHOULD BE EXHAUSTED BEFORE HMG CONSIDERS FORMAL INTERCES-

SION. FCO IMPRESSION IS THAT ROYALTY HOLDERS ARE NOT APT TO RAISE MATTER IN INTERNATIONAL LEGAL FORUM BECAUSE OF COSTS INVOLVED.

3. FCO LATIN AMERICAN DEPARTMENT WOULD BE PREPARED IN PRINCIPLE TO CONSIDER ROYALTY HOLDERS REQUEST THAT HMG APPROACH GOV IN SUPPORT OF EX GRATIA PAYMENT OR OTHER MEASURE DESIGNED TO AID HOLDERS ON GROUNDS OF FAIRNESS. HOWEVER FCO SOURCE DOUBTS AS A PRACTICAL MATTER HMG WOULD AGREE TO DO MUCH MORE THAN NOTE ORALLY OR POSSIBLY IN WRITING ITS INTEREST IN GOV AFFORDING SYMPATHETIC TREATMENT TO ROYALTY HOLDERS.

4. IN DISCUSSION WITH BRITISH ULTRAMAR SOLICITORS (FRESHFIELDS) ON NOVEMBER 18, FCO LEARNED TO ITS SURPRISE OF POSSIBLE CONFLICTS OF INTEREST. APPARENTLY, BRITISH ULTRAMAR HAS HAD OWNERSHIP RIGHTS IN SOME CONCESSION(S) IN ADDITION TO ITS ROYALTY HOLDINGS. FCO DOES NOT KNOW WHETHER IT (OR US ULTRAMAR) HAS OBTAINED SERVICE FEE CONTRACT AS "HIDDEN COMPENSATION" WHICH MIGHT EXPLAIN COMPARATIVELY RELAXED ATTITUDE OF BRITISH ULTRAMAR ON ROYALTY ISSUE. MOREOVER, SOLICITORS FOR BRITISH ULTRAMAR REPRESENT FAIRLY LARGE GROUP OF INDIVIDUAL ROYALTY HOLDERS (SOME OF WHOM ARE EMPLOYEES OF BRITISH ULTRAMAR) WHOSE COLLECTIVE INTERESTS TOTAL ABOUT SEVEN MILLION DOLLARS, EQUALLYING VALUE OF CLAIM OF BRITISH ULTRAMAR ITSELF. FCO HAS NO IDEA OF EXACT NUMBER OF INDIVIDUALS INVOLVED (POSSIBLY DOZENS). SIMILARLY, FCO HAS NO KNOWLEDGE AS TO WHETHER INDIVIDUAL CLIENTS OF FRESHFIELDS INCLUDE US CITIZENS OR OTHER FOREIGN NATIONALS. BRITISH ULTRAMAR EITHER COULD NOT OR WOULD NOT MAKE A REASONABLE RESPONSE TO FCO'S QUERY AS TO SIZE OF ITS CONCESSION, COMPENSATION OF ANY SORT RECEIVED THROUGH SERVICE AGREEMENT, ETC. FCO WONDERS IF AMERICAN ULTRAMAR MAY NOT BE BETTER SOURCE OF INFORMATION ON THESE MATTERS.

5. ACCORDING TO FCO, UK EMBASSY IN CARACAS REPORTS GOV IS SAYING ROYALTY HOLDERS OUGHT TO SEEK COMPENSATION FROM COMPANIES HOLDING CONCESSION RIGHTS AND THAT SOME SMALL AMERICAN ROYALTY HOLDERS ARE CONTEMPLATING SUIT
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PAGE 03 LONDON 17905 201831Z

AGAINST MENE GRANDE AND POSSIBLY OTHER COMPANIES. BASIS FOR LEGAL ACTION IN US COURTS ALLEGEDLY WOULD BE COMPANIES SHOULD NOT HAVE ACCEPTED VENEZUELAN OFFER OF COMPENSATION WHICH DID NOT SECURE INTERESTS OF ROYALTY HOLDERS.

6. COMMENT: FCO HAS ALWAYS BEEN LESS THAN ENTHUSIASTIC ABOUT PURSUING AN AGGRESSIVE LINE IN SUPPORT OF ROYALTY HOLDERS INTERESTS. LEGAL ADVISOR HAS BELIEVED PRIVATE

SOLICITORS SHMULD BE TAKING LEAD. REVELATION OF CON-
FLICTS OF INTEREST WITHIN ULTRAMAR ORGANIZATION IS NOT
CALCULATED TO ENCOURAGE FCO LATIN AMERICAN DEPARTMENT
TO EMBRACE ITS CAUSE WITH GREATER DEDICATION.

RICHARDSON

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